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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WASHINGTON STATE INVESTMENT
BOARD,

Plaintiff,

-against-

ODEBRECHT S.A., et al.,

Defendants.

17-CV-8118 (PGG) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Discovery in this action was stayed on December 6, 2023, while the Court adjudicated plaintiff's summary judgment motion, which – if granted – would obviate any further litigation as to the falsity, materiality, and scienter elements of plaintiff's securities fraud claims. (*See* Dkt. 138.) The stay was lifted, at plaintiff's request, after the undersigned magistrate judge recommended that the summary judgment motion be denied, and the time within which plaintiff could object to that recommendation expired. (Dkt. 153.)

On August 9, 2024, the Court so-ordered the parties' proposed briefing schedule for defendants' anticipated protective order motion. (Dkt. 156.) If granted, that motion (now due to be filed October on 11, 2024 and fully briefed on January 17, 2025) would substantially limit plaintiff's ability to conduct discovery into falsity, scienter, and materiality.

Now before the Court is the parties' proposed scheduling order (Dkt. 157), which would again stay discovery, this time pending resolution of the protective order motion.

The Court is unwilling to stay discovery entirely, again, for what may be an extended period of time. This case is already seven years old, such that percipient witnesses may be difficult to locate and/or compel, and their memories are likely fading. Moreover, the anticipated motion to compel will have no discernable effect upon the parties' need for, or ability to conduct, discovery

concerning the reliance, economic loss, and loss causation elements of plaintiff's claims.

Consequently, it is hereby ORDERED that:

- (1) Discovery regarding the elements of falsity, materiality, and scienter is hereby STAYED, pending the resolution of defendants' forthcoming motion for a protective order, or further order of the Court;
- (2) Fact discovery for all other purposes, including the elements of reliance, damages, and loss causation, may proceed.
- (3) The parties shall submit a joint status letter on **January 17, 2025**, updating the Court as to the progress of fact discovery regarding reliance, damages, and loss causation, and advising the Court when such discovery will be complete.

Dated: New York, New York
October 3, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge